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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,935	01/12/2001	Jay B. Schiller	1140417-991111	2760

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EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/759,935	Applicant(s) SCHILLER ET AL.	
	Examiner Reuben M. Brown	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

In particular, claims 4 & 6-7 recite, "return path communicator", which is not found in the specification. It is noted that on page 11 of the specification, a forward path 140 and return path 142 are cited. However, a return path communicator is not specifically disclosed.

Claim Objections

2. Claim 4 is objected to under 37 C.F.R. 1.75. The instant claim recites the limitation "the return path communicator" in line 1. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki, (U.S. Pat # 5,790,170).

Considering claim 5, the claimed video on demand system for distributing video on demand, comprising a headend having a server and an application server is met by the video server 21 and HE controller 24, which controls the operation of the video server and other components, see Suzuki (Fig. 4 & col. 6, lines 24-67).

The claimed one or more modulators connected to the headend, which services a particular group of subscribers by modulating video data at different frequencies so that the particular group of subscribers share the same physical media, reads on system of QAM modulators 105, and QPSK modulators 112, discussed in disclosure of Suzuki, (Fig. 5; col. 6, lines 24-34; col. 7, lines 1-64 & col. 8. lines 1-15). The QAM and QPSK modulators are

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included within the node controller structure 25, which are themselves located within a cable TV headend structure.

The claimed feature of a 'means for assigning a unique plant identifier for each group of subscribers so that video on demand data destined for a particular group of subscribers is modulated using the one or more modulators that service that particular group of subscribers', is met by the disclosure of Suzuki, that "the ATM exchanger 23 switches directly the digital data such as video stream from the tape library system 22 to any of 15 input terminals 104₁ to 104₁₅ of node controller corresponding to the section of the addressee subscriber".

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 & 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, (U.S. Pat # 5,790,170) in view of Rackman, (U.S. Pat # 4,002,843).

Considering claim 1, the claimed video on demand headend for distributing VOD to one or more groups of subscribers, comprising;

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‘a video server’ reads on the video server 21 of Suzuki, (Fig. 4 & col. 6, lines 24-44).

‘an application server connected to the video server’ is broad enough to read on the HE controller 24, which controls the operations of the video server and other components of the headend, (Fig. 4 & col. 6, lines 24-67).

‘means for receiving a request for VOD data from a subscriber, the request comprising the unique ID packet for the group of subscribers to which the subscriber belongs, the request for the particular video on demand data and a unique subscriber identifier’ reads on the discussion of Suzuki, which teaches that when a subscriber requests a video program, that the request includes a subscriber ID and ID of the requested program, (col. 13, lines 1-5).

‘means for selecting a modulator from the one or more modulators servicing the group of subscribers to which the subscriber belongs based on the unique ID packet’ reads on the disclosure in Suzuki that ATM exchanger 23 switches the requested digital data to any one of the terminals 104₁ to 104₁₅ that correspond with section addresses of the subscriber. These video signals are then transmitted to the appropriate modulator such as QAM modulator 105₁ to 105₁₅, (col. 7, lines 40-67 & Fig. 5).

Suzuki does not explicitly teach the claimed feature of periodically generating a unique ID packet for each group of subscribers. However, Rackman teaches that upstream messages from the subscribers in the system are only valid after they have received their address from the control center, such that the addresses are intermittently transmitted, (col. 1, lines 49-67; col. 6, lines 33-51; col. 9, lines 57-68). It would have been obvious for one of ordinary skill in the art at

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the time the invention was made, to modify Suzuki to periodically transmit subscriber addresses, at least for security purposes as taught by Rackman, which limits the time period that any particular subscriber has access to the upstream system. Even though the request for VOD in Suzuki includes the subscriber ID, it is not also disclosed that the group ID is included as recited in the claim. However, Rackman teaches that it is expected that at least a certain section of the subscriber address will be the group ID information, col. 8, lines 47-58.

Considering claims 2 & 9, the claimed application server comprising means for assigning a program slot associated with the selected modulator and communicating the selected modulator and assigned program slot to the subscriber reads on the disclosure in Rackman that the TDM system is designed so that a subscriber terminal is only transmits an upstream message after receiving its respective address from the headend, col. 1, lines 61-68; col. 7, lines 7-38 & col. 9, lines 34-68 thru col. 10, lines 1-4.

Considering claim 3, the claimed two-way communication path is met by the Rackman, (col. 5, lines 45-68).

Considering claims 4 & 7, the claimed modem is broad enough to read on the operation of the node controller 25 of Suzuki, which include a QPSK modulation and demodulation circuits, (Fig. 5). Also, the central control 10 and subscriber terminal 28 of Rackman include a modulator and demodulator, respectively.

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Considering claim 6, the claimed 'return path communicator' is met by the demand receiving analysis means 5, (see Fig. 10; col. 12, lines 22-67). The claimed one or more subscriber terminal is met by the subscriber terminal shown in Fig. 10. As for the means for receiving the plant identifier 'periodically transmitted' by the headend, Suzuki does not discuss such a feature. However, Rackman teaches that upstream messages from the subscribers in the system are only valid after they have received their address from the control center, such that the addresses are intermittently transmitted, (col. 1, lines 49-67; col. 6, lines 33-51; col. 9, lines 57-68). It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Suzuki to periodically transmit subscriber addresses, at least for security purposes as taught by Rackman, which limits the time period that any particular subscriber has access to the upstream system.

Considering claim 8, the claimed video on demand delivery method comprises method steps that corresponds with subject matter mentioned above in the rejection of claims 1 & 5, and are likewise rejected.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Lovett, Dyer Teaches modulator assigned to groups of subscribers.
- B) Kauffman Teaches transmitting subscriber address to the subscriber.

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Any response to this action should be mailed to:

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Or:

(703) 746-6861 (for informal or draft communications, please label
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*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399.

The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone numbers for the
organization where this application or proceeding is assigned is (703) 872-9306 for regular
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown


REUBEN M. BROWN
PATENT EXAMINER